U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

DATE: OCT 15 2013 Office: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at http://www.uscis.gov/forms for the latest information on fee, filing location, and other requirements.** *See also* 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the immigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. According to Part 6 of the Form I-140, the petitioner seeks employment as a "Special Education Teacher." The petitioner worked for at from November 2006 – June 2012. Subsequent to filing the Form I-140, the petitioner began working as "a Special Educator in Maryland" in August 2012. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the position sought by the petitioner does not require an advanced degree. The director also determined that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

The petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on June 29, 2012. In Part 4 of the Form I-140, the petitioner answered "yes" to whether any petitions had previously been filed on her behalf. The record reflects that filed a Form I-140 petition, with an approved labor certification, on her behalf on February 3, 2011, to classify her as a professional under section 203(b)(3)(A)(ii) of the Act. The Texas Service Center approved the petition on September 26, 2011, with a priority date of September 8, 2010.

The director issued a request for evidence on October 30, 2012, instructing the petitioner to submit evidence that her "contributions as a special education teacher will impart national-level benefits" and that she "has a past record of specific prior achievement with some degree of influence on the field as a whole." The petitioner responded by submitting a letter from counsel and additional documentation.

The director denied the petition on February 6, 2013. The director found that the petitioner failed to establish that an exemption from the requirement of a job offer would be in the national interest of the United States. The director indicated that the petitioner had not shown that her work as a special education teacher will be national in scope. In addition, the director stated that the petitioner had failed to demonstrate that her work has "had an impact on the field of teaching in the U.S."

On appeal, the petitioner submits a brief from counsel and copies of documents previously submitted. The appellate brief is similar to the letter from counsel submitted in response to the director's request for evidence.

Section 203(b) of the Act states, in pertinent part:

> (2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –

> (A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
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> (B) Waiver of Job Offer –
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> > (i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director stated that "it does not appear that the petitioner's position requires and advanced degree." The regulation at 8 C.F.R. § 204.5(k)(4)(ii), however, does not require the petitioner, who is seeking exemption from the job offer requirement, to demonstrate that the position sought requires a professional holding an advanced degree. *Compare* 8 C.F.R. § 204.5(k)(4)(i) and (ii). Accordingly, the director's finding with regard to that issue is withdrawn. As the documentation submitted by the petitioner demonstrates that she qualifies as a member of the professions holding an advanced degree, the remaining issue is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

The regulation at 8 C.F.R. § 204.5(k)(4)(ii) states, in pertinent part, "[t]o apply for the [national interest] exemption the petitioner must submit Form ETA-750B, Statement of Qualifications of Alien, in duplicate." The petitioner did not execute this required document for the petition, and therefore the petitioner has not properly applied for the national interest waiver. For this reason alone, the petitioner has failed to establish eligibility for the benefit sought.

Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . ." S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

A supplementary notice regarding the regulations implementing the Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978 (Nov. 29, 1990) (IMMACT90), published at 56 Fed. Reg. 60897, 60900 (Nov. 29, 1991), states, in pertinent part:

> The Service believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the "prospective national benefit" [required of aliens seeking to qualify as "exceptional."] The burden will rest

> with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

In re New York State Dept of Transportation, 22 I&N Dec. 215, 217-18 (Act. Assoc. Comm'r 1998) (NYSDOT), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, a petitioner must establish that the alien seeks employment in an area of substantial intrinsic merit. *Id.* at 217. Next, a petitioner must establish that the proposed benefit will be national in scope. *Id.* Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. *Id.* at 217-18.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien's past record justifies projections of future benefit to the national interest. *Id.* at 219. The petitioner's subjective assurance that she will, in the future, serve the national interest is not sufficient to establish prospective national benefit. The inclusion of the term "prospective" is used here to require future contributions by the petitioner, rather than to facilitate the entry of an individual with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative. *Id.*

Eligibility for the waiver must rest with the alien's own qualifications rather than with the position sought. Assertions regarding the overall importance of an alien's area of expertise cannot suffice to establish eligibility for a national interest waiver. *Id.* at 220. Moreover, it cannot suffice to state that the alien possesses useful skills, or a "unique background." Special or unusual knowledge or training does not inherently meet the national interest threshold. The issue of whether similarly-trained workers are available in the United States is an issue under the jurisdiction of the Department of Labor. *Id.* at 221.

The petitioner has established that her work as a special education teacher is in an area of substantial intrinsic merit. It remains, then, to determine whether the proposed benefits of the petitioner's work will be national in scope and whether she will benefit the national interest to a greater extent than an available U.S. worker with the same minimum qualifications.

In a June 28, 2012 letter accompanying the petition, counsel stated:

> The petitioner is seeking a national interest waiver, requesting exemption from the requirement of a job offer, and thus of a labor certification, because it is in the national interest of the United States.
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> * * *
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> Petitioner holds 30 Post-Graduate Credits in Education from the [redacted] in [redacted] Maryland, USA. She received her Master of Arts in Special Education from [redacted] her Bachelor of Science degree in Education from the [redacted]

her Masters in Management from the and her Bachelor of Arts degree in Sociology from all in the Philippines. Petitioner is PRAXIS II Certified in Special Education, and she has obtained Advanced Professional Certificates from the State of Maryland, and is also licensed to teach as a Professional Teacher in the states of Colorado and Arizona.

* * *

Petitioner is a Special Education Self-Contained Teacher in grades 1, 2, 3, 4, and 5 at the from August, 2009 up to the present. She also taught in the same public school in Baltimore from November 2006 to June, 2009, in grades 1, 2, and 3. Prior to coming to the U.S., she was a Special/General Education/English/Language Arts Teacher at elementary & secondary levels, from June 1978 to September 2006.

Academic records, occupational experience, and licenses and professional certifications are elements that can contribute toward a finding of exceptional ability. *See* 8 C.F.R. § 204.5(k)(3)(ii)(A), (B), and (C), respectively. Exceptional ability, in turn, is not self-evident grounds for the waiver. *See* section 203(b)(2)(A) of the Act.

In addition, counsel initially stated:

> As a SPED [special education] teacher, Petitioner will serve the national interest by providing students with special needs equal access to educational opportunities that will help develop their full potential, enable them to become productive members of the community, and live rich and meaningful lives.

While the petitioner's employment as a special education teacher has substantial intrinsic merit, there is no evidence establishing that the benefits of her work as an educator would extend beyond the classroom such that they will have a national impact. *NYSDOT*, 22 I&N Dec. at 217, n.3, provides examples of employment where the benefits would not be national in scope:

> For instance, pro bono legal services as a whole serve the national interest, but the impact of an individual attorney working pro bono would be so attenuated at the national level as to be negligible. Similarly, while education is in the national interest, the impact of a single schoolteacher in one elementary school would not be in the national interest for purposes of waiving the job offer requirement of section 203(b)(2)(B) of the Act. As another example, while nutrition has obvious intrinsic value, the work of one cook in one restaurant could not be considered sufficiently in the national interest for purposes of this provision of the Act.

Id. In the present matter, the benefits of the petitioner's impact as a special educator are limited to the students at her school and, therefore, not national in scope. In addition, the record lacks specific examples of how the petitioner's work as a teacher has influenced the education field on a national level. For instance, although counsel stated that the petitioner "has planned a research proposal on

'Self-Esteem & Self-Concept as Tied to Academic Motivation & Achievement in Special Education Settings,'" there is no documentary evidence of the research project or its influence on the field of special education. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). At issue is whether this petitioner's contributions in the field are of such significance that she merits the special benefit of a national interest waiver, a benefit separate and distinct from the visa classification she seeks. A petitioner must demonstrate a past history of achievement with some degree of influence on the field as a whole. *NYSDOT* at 219, n. 6.

The petitioner submitted various letters of support from administrators, teachers, parents, and her church pastor discussing her work as an educator. This decision takes into account all of the letters. However, as some of the letters contain similar claims addressed in other letters, a discussion of a sampling of these letters follows.

[redacted] Assistant Principal, [redacted] stated:

> I have worked with [the petitioner] at [redacted] in my capacity as Instructional Support Teacher for four years from 2006 to 2009. As a self-contained special education teacher handling a multi-grade class, [the petitioner] consistently plans and effectively implements a variety of on-going differentiated activities and maintains an appropriately organized, print rich and safe classroom environment.
>
> She has a wonderful rapport with people of all ages, especially children. Her ability to connect with her students and her talent at teaching simple concepts, as well as more advanced topics, are both truly superior. She has excellent written and verbal communication skills, is extremely organized, reliable and computer literate. [The petitioner] can work independently and is able to follow through to ensure that the job gets done. She accomplishes these tasks with great initiative and with a very positive attitude.

Ms. [redacted] comments on the petitioner's effectiveness as a special education teacher at [redacted] but she does not indicate that the petitioner's work has had, or will continue to have, an impact beyond her classroom and the [redacted] system.

[redacted] former principal of [redacted], stated:

> [The petitioner] commands respect and is genuinely caring and interested in each of her students. As a certified special educator, [the petitioner's] duties include the teaching and case management of a self-contained multi grade class of students with special needs, a job she does with commitment and perseverance. She is able to do multiple tasks efficiently and successfully serving as a member of the school IEP [Individualized Education Program] team Committee despite the pressure of deadlines. She is highly innovative, creating templates and matrices that she shares with fellow educators to help make case management time-

efficient. She is able to work independently but is also a strong collaborator, partnering with parents and fellow professionals in order to provide comprehensive student progress reports during IEP meetings.

Records show that she has had extensive training on writing curriculum-based goals, understanding and supporting students with autism, educating students with emotional disorder and behavioral disabilities. She has consistently shared best practices with colleagues as an active and effective participant in a professional learning community. As a proficient and reliable special education teacher, [the petitioner] does not hesitate to go the extra mile to ensure her students' success. She willingly stays after school hours on weekdays to provide tutorials to struggling students. In the school year 2008-2009, test scores of special education students in her class increased, attributed to her hard work.

Ms. describes the petitioner's work as special educator and praises the petitioner's dedication and effectiveness as a teacher, but does not indicate how the petitioner's impact or influence as a teacher is national in scope. In addition, although Ms. indicates that the petitioner shares educational tools and best practices with her colleagues, she fails to provide specific examples of how the petitioner's work has influenced the field as a whole.

Teacher, stated:

I have known [the petitioner] since 2006. We worked on [sic] the same school, Maryland from 2006 through 2010. She has been an excellent asset to our school.

[The petitioner] has been teaching a self-contained special education class of students with different disabilities ranging from autism, intellectually disabled, emotionally-disturbed and learning disabled at

[The petitioner's] professionalism is demonstrated through her innovative and creative instruction aligned with the curriculum state standards and common core instructional framework and rubric. Her expertise is not limited to self-contained classrooms, but also to students who are mainstreamed in the general education classrooms.

Being an innovative and creative teacher, [the petitioner] prepares lessons fashioned to the needs and learning styles of each of her students. She uses a variety of instructional techniques to connect and actualize learning for her students. She differentiates instruction and activities depending upon the readiness of her students. She further uses technology to improve instruction and use academic games to make sure students engage in the lesson and enjoy learning at the same time.

[The petitioner] has genuine love and passion for teaching that motivates and encourages her students to improve their skills and hone their potentials. She works hard to make the

atmosphere in her classes friendly and engaging. She has excellent rapport with students, parents and staff.

Ms. comments on the petitioner's work at and the petitioner's expertise as a teacher, but Ms. 's observations do not set the petitioner apart from other competent and qualified special educators, or explain how the petitioner's work has impacted the field beyond the students under her tutelage.

The petitioner's references praise her teaching abilities and personal character, but they do not demonstrate that the petitioner's work has had an impact or influence outside of the schools where she has taught. They also do not address the *NYSDOT* guidelines which, as published precedent, are binding on all USCIS employees. *See* 8 C.F.R. § 103.3(c). That decision cited school teachers as an example of a profession in a field with overall national importance (education), but in which individual workers generally do not produce benefits that are national in scope. *NYSDOT* at 217, n. 3.

The Board of Immigration Appeals (BIA) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The BIA also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

The opinions of the petitioner's references are not without weight and have been considered above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters of support from the petitioner's personal contacts is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795-796; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact").

In addition to reference letters, the petitioner submitted the following:

1. A Maryland Educator Certificate;
2. A State of Colorado Professional Teacher license;
3. Praxis series test results;
4. Degrees and academic transcripts;
5. A President's Award for Educational Excellence "in recognition of Outstanding Academic Excellence" issued by the principal at
6. A Certificate of Outstanding Performance "as an educator of Schools" from ';

7. A Hall of Fame Award from ' for "having been Proficient in the annual teacher's evaluation for three consecutive years (2008 – 2011) in ;
8. A Certificate of Appreciation from ' in recognition of "5 Years of Dedicated Service" to
9. A Certificate of Membership for the National Association of Special Education Teachers;
10. A Certificate of Recognition indicating that the petitioner is a "Founder and Active Member of ;
11. A certificate indicating that the petitioner is a member of the of the American Federation of Teachers; and
12. A Certificate of Appreciation from the system for "participation in the '

Academic records, licenses and professional certifications, professional association memberships, and recognition for achievements are all elements that pertain to a finding of exceptional ability, but exceptional ability is not sufficient to warrant the national interest waiver. The plain language of section 203(b)(2)(A) of the Act indicates that aliens of exceptional ability are subject to the job offer requirement (including alien employment certification). Particularly significant awards may serve as evidence of the petitioner's impact and influence on her field, but the petitioner has failed to demonstrate that the awards she received (items 5 – 8, 10, and 12) have more than regional, local, or institutional significance. For instance, the petitioner's certificates from ' reflect regional recognition from a professional support group rather than nationally significant awards in the field of education. There is no documentary evidence showing that items 1 – 12 are indicative of the petitioner's influence on the field of education at the national level.

The petitioner submitted certificates of participation for training seminars and workshops relating to her professional development. While taking courses and attending seminars and workshops are ways to increase one's professional knowledge and to improve as a teacher, there is nothing inherent in these activities to establish eligibility for the national interest waiver.

The petitioner submitted documentation indicating that she participated on a panel entitled "Tough Choices: The impact of Philippines and U.S. policies on the lives of Overseas Filipina Professionals in America" at the Fifth Annual Filipina Summit (2007) in Washington, D.C., but the subject of the panel was not special education. There is no evidence demonstrating that the petitioner's specific contribution to the panel has influenced the field as whole or has otherwise had a national impact on special education methodologies.

In response to the director's request for evidence, the petitioner submitted a personal statement discussing her position as a special educator, educational background, qualifications, and professional experience. Any objective qualifications which are necessary for the performance of the occupation can be articulated in an application for alien labor certification. *NYSDOT* at 220-221. As previously discussed, special or unusual knowledge or training does not inherently meet the national interest threshold. The issue of whether similarly-trained workers are available in the United States

is an issue under the jurisdiction of the Department of Labor. *Id.* at 221. The petitioner's personal statement also listed various awards that she has received, but there is no documentary evidence showing that the awards are indicative of her influence on the field of special education as a whole.

The petitioner's response also included a December 2012 "Research Proposal" by her entitled ' ' The petitioner authored the proposal subsequent to the petition's June 29, 2012 filing date. Eligibility, however, must be established at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). Accordingly, the December 2012 research proposal cannot be considered as evidence to establish the petitioner's eligibility. Regardless, there is no evidence indicating the petitioner's study resulted in findings that were implemented by a substantial number of schools nationally, that were frequently cited by independent educational scholars, or that otherwise influenced the field as a whole.

On appeal, counsel points to the petitioner's 25 years of experience as a special education teacher, educational qualifications, and awards, but none of the submitted documentation shows that the petitioner's work has had a wider impact on the field of special education. There is no documentary evidence demonstrating that the petitioner's educational achievements are national in scope and indicative of her influence on the field as a whole.

Counsel asserts that "a major factor" in consideration of granting a national interest waiver for the petitioner is "the improvement of education and programs for U.S. children." However, general arguments or information regarding the importance of a given field of endeavor, or the urgency of an issue facing the United States, cannot by themselves establish that an individual benefits the national interest by virtue of engaging in the field. *NYSDOT*, 22 I&N Dec. at 217. These assertions address only the "substantial intrinsic merit" prong of *NYSDOT*'s national interest test. There is no documentation demonstrating that the petitioner's work has had an impact or influence outside of the schools where she has taught. In addition, counsel fails to explain how the actions of one special education teacher would contribute significantly to improving the national educational system. Congress could have created a blanket waiver for special educators, but did not do so. Instead, the job offer requirement applies to members of the professions (such as public school teachers) and to aliens of exceptional ability (*i.e.*, foreign national workers who show a degree of expertise significantly above that ordinarily encountered in a given field). Counsel identifies no statutory or regulatory provisions that exempt special education teachers from *NYSDOT* or reduce its impact on them. USCIS grants national interest waivers on a case-by-case basis, rather than establishing blanket waivers for entire fields of specialization. *NYSDOT*, 22 I&N Dec. at 217.

Counsel points to the petitioner's December 2012 "Research Proposal" entitled ' ' Counsel asserts that the "study is not only limited to Maryland but can become national in scope." As previously discussed, the petitioner authored the proposal subsequent to the petition's filing date. Eligibility, however, must be established at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Regardless, there is no documentary

evidence showing that the petitioner's study has been undertaken in Maryland or that it has secured the necessary authorizations and funding to be implemented nationally.

Counsel states:

> According to the Bureau of Labor Statistics, U.S. Department of Labor Occupational Outlook handbook, 2012-2013 Edition, Employment of special education teachers is expected to grow by 17% from 2010 to 2020, about as fast as the average for all occupation [sic]. Growth is expected because of increasing enrollment and continued demand for special education services. Laws emphasizing training and employment for people with disabilities are expected to lead to some job growth for special education teachers, as are new higher standards for high school graduation. More parents are expected to seek special services for children who have difficulty meeting the higher standards required of students.

Counsel's preceding comments focus on the increased demand for special education teachers. As the employment certification process was designed to address the issue of worker shortages, a shortage of qualified workers in a given field is does not establish eligibility for the national interest waiver. The issue of whether similarly-trained workers are available in the U.S. is an issue under the jurisdiction of the Department of Labor. *NYSDOT*, 22 I&N Dec. at 221.

Counsel asserts: "Another evidentiary factor that should be considered in the adjudication of a national interest waiver is improving the U.S. economy and improving wages and working conditions for U.S. workers." This assertion does not address how the actions of one special education teacher would contribute significantly to the U.S. economy and to better wages and working conditions for the U.S. workforce. Moreover, general assertions about the overall importance of education, and the need for special education programs, do not exempt every special education teacher from the job offer requirement. As members of the professions (as defined in section 101(a)(32) of the Act), teachers are subject to the job offer/labor certification requirement set forth in sections 203(b)(2)(A) and (3)(C) of the Act. Likewise, aliens of exceptional ability who "will substantially benefit prospectively ... the United States" are also subject to the job offer provision of section 203(b)(2)(A) of the Act. Again, Congress did not create a blanket waiver for special education teachers. As indicated by the statute, an individual who works in a beneficial profession such as special education is not automatically or presumptively exempt from the job offer requirement.

Counsel further states:

> The role that the Petitioner/beneficiary will perform is definitely superlative in degree than any U.S. worker, who would have the same minimum qualifications that he [sic] has. Ms. Lumapas [sic] is attuned to this great country's commitment of ensuring equality of opportunity, full participation, independent living, and self sufficient for individuals with disabilities . . . .

Counsel asserts above that the petitioner's role is "superlative in degree than any U.S. worker," but there is no documentary evidence to support his claim. Again, the unsupported assertions of counsel

do not constitute evidence. *See Matter of Obaigbena*, 19 I&N Dec. at 534 n.2; *Matter of Laureano*, 19 I&N Dec. at 3 n.2; *Matter of Ramirez-Sanchez*, 17 I&N Dec. at 506. In addition, counsel appears to incorrectly refer to the petitioner as "Ms. Lumapas."

Counsel continues:

> Furthermore under the third (3) threshold criteria i.e. the national interest would be adversely affected if a labor certification were required. . . . A lot of the proposed benefits from the Petitioner/Applicant's work are dependent on her proven record of achievement and her unique and innovative set of skills, knowledge and background.

Counsel states above that the petitioner has a "proven record of achievement," but there is no documentary evidence showing the petitioner's specific work has influenced the field of special education at a level that would justify a waiver of the job offer requirement. Counsel also comments on the petitioner's "unique and innovative set of skills, knowledge and background," but as previously indicated, it cannot suffice to state that the alien possesses useful skills, or a "unique background." *NYSDOT*, 22 I&N Dec. at 221. Special or unusual knowledge or training does not inherently meet the national interest threshold.

Lastly, counsel asserts:

> Because a labor certification process is standardized, one that only related to minimum requirements of education and experience, such a process will not take into account these crucial factors. In other words, many of the essential qualities that [the petitioner] has, which are so important to serving the national interest will not be articulated in a labor certification process.
>
> Moreover, failure to consider these factors could result in a denial of a labor certification, because a U.S worker with minimum qualifications might be found. Since Petitioner/applicant will serve the nation to a substantially greater degree than anyone with minimum qualifications, her non participation on her current work would deprive the nation of her exceptional and crucial contribution to the national interest. . . . Therefore, requiring a labor certification would adversely affect the national interest.

The U.S. Department of Labor, however, has already approved a labor certification for on behalf of the petitioner. Therefore, the record does not support counsel's assertions.

A plain reading of the statute indicates that engaging in a profession (such as teaching) does not presumptively exempt such professionals from the requirement of a job offer based on national interest. The petitioner has not established that her past record of achievement is at a level that would justify a waiver of the job offer requirement which, by law, normally attaches to the visa classification sought by the petitioner. The petitioner need not demonstrate notoriety on the scale of national acclaim, but the national interest waiver contemplates that her influence be national in scope. *Id.* at

217, n.3. More specifically, the petitioner "must clearly present a significant benefit to the field of endeavor." *Id.* at 218. *See also id.* at 219, n.6 (the alien must have "a past history of demonstrable achievement with some degree of influence on the field as a whole"). On the basis of the evidence submitted, the petitioner has not established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.